

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOUGLAS R. FLINN, #971215,

Petitioner,

v.

CASE NO. 2:18-CV-11764
HONORABLE ARTHUR J. TARNOW

DEWAYNE BURTON,

Respondent.

**OPINION AND ORDER DISMISSING THE PETITION FOR A WRIT OF
HABEAS CORPUS AND DENYING A CERTIFICATE OF APPEALABILITY**

The Court has before it Michigan prisoner Douglas R. Flinn's *pro se* habeas case filed pursuant to 28 U.S.C. § 2254. When he instituted this action, Petitioner did not submit a proper habeas petition listing his claims nor did he pay the required \$5.00 filing fee or submit an application to proceed *in forma pauperis*. See 28 U.S.C. § 1914(a); 28 U.S.C. § 1915; Rule 3 of the Rules Governing § 2254 Cases. The Court, therefore, issued a deficiency order on June 14, 2018 requiring Petitioner to submit a petition listing his claims and to either pay the filing fee or submit a properly completed *in forma pauperis* application. The order provided that if he did not do so within 21 days, his case would be dismissed. The time for listing the habeas claims and submitting either the filing fee or the required information has elapsed and Petitioner has failed to correct the deficiencies.

Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus. The Court makes no determination as to the merits of the petition. This case is **CLOSED**. Should Petitioner wish to seek federal habeas relief, he must file new habeas case listing his specific claims along with payment of the filing fee or an *in forma pauperis* application. This case will not be reopened.

Before Petitioner may appeal the Court's decision, a certificate of appealability must issue. *See* 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a federal court denies relief on procedural grounds without addressing the merits of a habeas petition, a certificate of appealability should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). Reasonable jurists could not debate the correctness of the Court's procedural ruling. Accordingly, the Court **DENIES** a certificate of appealability.

IT IS SO ORDERED.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
SENIOR UNITED STATES DISTRICT JUDGE

Dated: August 8, 2018